

REMARKS

Each of the objections and rejections in the Final Office Action will be responded to under the corresponding subheading below.

a. Response to Objections to Claims

Claim 23 was objected to on grounds that it depends from claim 21, which Applicant has canceled.

Accordingly (as was correctly assumed by the Examiner), Applicant has corrected claim 23 to depend from claim 16.

Accordingly, it is believed that the objection to the claim has been overcome by the present Amendment.

b. Response to Rejections of Claims under 35 USC §112

Claim 16 was rejected under 35 USC §112 second paragraph, as being indefinite, on grounds of insufficient basis for the limitation "said loading/unloading conveyor" in line 11.

Accordingly, Applicant has by the present Amendment corrected claim 16 at line 11 to recite --a loading/unloading conveyor--, obviating the antecedent basis issue.

According, it is believed that the rejection of the claims under 35 USC §112 has been overcome by the present Amendment.

c. Response to Rejections of Claims under 35 USC §§102 and 103

(i) Response to the Rejection of Claims 1-15

Claims 1-3, 5 and 11 were rejected under 35 USC §102(b) as being anticipated by *Weir* (U.S. 3,613,910). Claim 4 was rejected under 35 USC §103(a) over *Weir* in view of

Hayashi (U.S. 5,082,415). Claims 6-8 were rejected under 35 USC §103(a) over *Weir* in view of *Tharpe* (U.S. 5,887,699). Claim 9 was rejected under 35 USC §103(a) over *Weir* in view of *Tharpe* and *Ringer* (U.S. 4,093,084). Claims 10 and 14 were rejected under 35 USC §103(a) over *Weir* in view of *Tharpe* and *Thornton* (U.S. 5,054,987). Claims 12-13 were rejected under 35 USC §103(a) over *Weir* in view of *Tharpe*, *Thornton* and *Barski* (U.S. 3,042,230). Claim 15 was rejected under 35 USC §103(a) over *Weir* in view of *Tharpe*, *Thornton* and *Winski* (U.S. 5,562,403).

Weir (U.S. 3,613,910) is the sole reference in the §102 rejection. *Weir* is the primary reference in the §103 rejections. In each instance, *Weir* is cited as showing a "traveling conveyor", as required by Applicant's claims. Applicant disagrees that the reference shows the required element, and respectfully requests that the rejections be reconsidered and withdrawn. Specifically, Applicant's position is that the stacker crane shown by *Weir*, does not meet the definition of a "traveling conveyor", as required by claims 1-15.

In response to Applicant's previous arguments, the Examiner asserted that "the features upon which applicant relies, i.e., that a conveyor is 'a horizontal, inclined, or vertical device for moving or transporting bulk material, packages or objects in a path predetermined by the design of the device, and having points of loading and discharge, fixed or selective'... are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims." The foregoing information was not, however, submitted as additional limitations to be read into the claims *per se*, but rather as a definition of what is meant in the art by the term "conveyor". It is appropriate to compare the meaning of terms given in technical dictionaries in order to ascertain the accepted meaning of a term in the art (MPEP 2173.05(a)). The relevant art in this instance is materials handling, and the definition provided by Applicant was obtained from the online glossary of the Material Handling Industry of America (MHIA), which is the leading trade association for the material handling industry. A copy of the definition is attached, along with copies of the definitions for "stacker crane" (the device disclosed by *Weir*) and "crane".

As can be seen, the material handling industry definition of a conveyor is "a horizontal, inclined, or vertical device for moving or transporting bulk material, packages, or objects *in a path predetermined by the design of the device*, and having points of loading and discharged fixed or selective" (emphasis added). There are many types of conveyors--belt, roller, bucket, etc.--but all move material a path predetermined by the design of the device. Cranes, by contrast, move articles along many different paths, both vertically and horizontally, not on a particular path that is predetermined by the design of the device. The attached MHIA definition thus states that a crane is "a machine for lifting and lowering a load, and moving it horizontally..." The definition for a "stacker crane", in turn, states that it is a particular type of crane, similar to a bridge crane.

Weir states that element 120 is a "stacker crane" (column 5, lines 28-34). Moreover, the reference states that the cranes are driven back and forth in different directions (column 5, lines 32-34), and are also raised and lowered, so as to be able to reach the locations of the various storage compartments in the racks. Thus, consistent with the MHIA definition of a "crane", the stacker crane 120 of *Weir* moves the articles along many different, varying paths, and not along a particular path "predetermined by the design of the device" as would a conveyor.

Applicant consequently respectfully submits that *Weir* does not disclose a "conveyor", as this term is defined and understood in the relevant art. Applicant furthermore submits that, even without direct reference to the definition, no person of ordinary skill in the material handling art would consider a "stacker crane" to constitute a "conveyor", or visa versa.

In order to anticipate a claim, the reference must teach every element of the claim (MPEP 2131). In order for *prima facie* obviousness to exist, the references must teach or suggest all the claim limitations (MPEP 2143). For the reasons explained above, the stacker crane disclosed by *Weir* is not a "conveyor". Furthermore, as the Examiner has noted, none of the secondary references discloses this element. Applicant consequently submits that the references fail to anticipate claim 1 and fail to establish a *prima facie* case of obviousness against claim 1 and its dependent claims 2-15 and respectfully

requests that the rejection of the claims under 35 USC §§102 and 103 be reconsidered and withdrawn.

(ii) Response to Rejection of Claims 16-19 and 22-26

Claims 16 and 18 and 22-26 were rejected under 35 USC §103(a) over *Thornton* in view of *Holz* (U.S. 6,056,497). Claim 19 was rejected under 35 USC §103(a) over *Thornton* in view of *Holz* and *Barski* (U.S. 3,042,230).

For the reasons explained below, Applicant respectfully traverses the rejections and respectfully requests that they be reconsidered and withdrawn.

Independent claim 16, from which claims 17-19 and 22-26 depend, expressly recites means for moving the unloading paddle "from a retracted position in which said unloading paddle is positioned *beneath* and upper surface of said extensible dock member, to a deployed position in which said unloading paddle projects *above* said upper surface of said extensible dock member..." (emphasis added). This element is neither taught nor suggested by the references.

In the Office Action, *Thornton* was cited as showing a dock, however it was noted that the reference does not include an unloading paddle. *Holz* was cited as showing "an unloading paddle 40, means 28, 32 for selectively moving a paddle from a retracted position to a deployed position, and means 28, 32 for translating an unloading paddle in a deployed position...".

Although *Holz* does show an unloading paddle, it does not show means for moving the paddle from a retracted position beneath an upper surface of a dock, to a deployed position in which the paddle project above the upper surface of the dock, as is required by claim 16. Instead, the "paddle" of *Holz* (pusher 40) always projects above the surface of the bed and is never retracted to a position beneath its surface: At the forward end the pusher projects upwardly to form a stop, and at the rearward end the pusher is cammed out of engagement with the drive chain so that it remains standing above the bed (see column 4, lines 36-53, and column 5, lines 59-67).

Holz therefore fails to show means for moving the unloading paddle from a retracted position beneath the surface of the dock to a deployed position above the surface of the dock, as required by Applicant's claims. The remaining reference do not add anything that would teach or suggest this limitation.

In order to establish a *prima facie* case of obviousness, the references when combined must teach or suggest all of the claim limitations. For reasons explained above *Thornton* in combination with *Holz* and *Barski* fails to show all of the elements of independent claim 16 and its dependent claims 17-19 and 22-26. Applicant therefore respectfully requests that the rejection of the claims under 35 USC §103 be reconsidered and withdrawn.

d. Conclusion

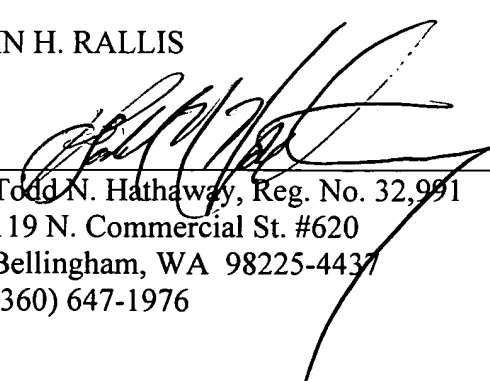
Applicant respectfully requests reconsideration of the present application in view of the remarks set forth herein. It is believed that the claims are now in condition for allowance. If there is any matter that can be expedited by consultation with Applicant's attorney, such would be welcome. Applicant's attorney can normally be reached at the telephone number given below.

Signed at Bellingham, County of Whatcom, State of Washington this 14th day of February, 2007.

Respectfully submitted,

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CLASS 198, CONVEYORS: POWER-DRIVEN

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SECTION I - CLASS DEFINITION

GENERAL STATEMENT OF CLASS SUBJECT MATTER

A power-driven conveyor is an assemblage of elements for moving a load over a predetermined path or path section. The assemblage generally includes a single frame structure mounting a power-driven load-advancing means which is used to advance the load over the predetermined path.

The load-advancing means may comprise either a single load-advancing element or a group of like members acting as a single load-advancing device. A group of like members may be considered as acting as a single unit if they coact one with the other to effect movement of the load, where said coaction occurs along the entire length of said path or path section. Some other criteria which generally indicate that a group of like members is acting as a single unit are: a common frame structure supporting all the members; or a drive means for all the members, with the elements being driven at the same speed or over the same speed range. The above are merely certain parameters that most groups acting as a single unit exhibit. As with any rule or definition, there will be exceptions.

See the Glossary, below, for clarification and limitation of the concepts of the terms Chute and Condition Responsive, applying to the manner in which they are encountered in this class (193).